

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**JOHN H. SZEWCZYK,**

**Petitioner,**

**v.**

**UNITED STATES OF AMERICA,**

**Respondent.**

**CASE NO. 2:11-CV-786**

**CRIM. NO. 2:10-CR-91**

**JUDGE GEORGE C. SMITH**

**MAGISTRATE JUDGE KEMP**

**ORDER**

On March 12, 2013, the Magistrate Judge issued a Report and Recommendation recommending that the Court deny the pending motion to dismiss (Doc. 39) and direct the United States to file a return within sixty days, with petitioner having the right to reply within thirty days thereafter. No objections have been filed. The Report and Recommendation (Doc. 42) is therefore **ADOPTED AND AFFIRMED**. The motion to dismiss is **DENIED**. The United States shall file a response to petitioner's motion to vacate within sixty days. Petitioner may reply within thirty days thereafter. The Court reaffirms the finding that by filing his motion and raising a claim of ineffective assistance of counsel, petitioner has waived the attorney-client privilege with respect to communications with his attorney related to that claim.

**IT IS SO ORDERED.**

/s/ George C. Smith

George C. Smith

United States District Judge